

REMARKS

Claims 6–11 are pending in this application.

The claims stand rejected for being indefinite for failing to particularly point out and distinctly claim the subject matter that is regarded as the invention and as being obvious. The individual rejections will be addressed below in the order presented in the Office Action.

Support for Claim Amendments

The amendments presented above have been made to recite particular features of the inventions so as to expedite the prosecution of the present application to allowance in accordance with the USPTO Patent Business Goals (65 Fed. Reg. 54603, September 8, 2000). These amendments do not represent an acquiescence or agreement with any of the outstanding rejections.

Claim 6 is amended herein to include matter previously claimed in claim 8. Claims 7 and 9 are amended herein to more particularly define the invention and to provide antecedent basis. Claims 8 and 10 are canceled herein without prejudice.

I. Priority, Drawings and Specification

The Examiner raises a number of objections to the abstract, the drawings and the specification. Applicants have made the appropriate corrections by proposing a correction to Figure 2 and amendments to the Specification as requested by the Examiner. In view of the foregoing, Applicants respectfully request a withdrawal of these objections.

II. Claim Rejections-35 USC § 112

Claims 6–11 stand rejected under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention.

Claim 6 is amended herein to recite “An oxygen-containing gas blowing device for use in a wet flue gas desulfurizer for removing SO₂ from combustion exhaust gas by wet desulfurization comprising:” in order to delineate the preamble and the body of the claim. Matter previously claimed in claim 8 is incorporated herein into claim 6 and the language

from original claim 8 incorporated into claim 6 is amended herein to provide appropriate antecedent basis. Support for the claim amendment can be found on page 28, lines 13–17 of the specification. Claim 7 is amended herein to provide antecedent basis for the claimed subject matter.

In view of the foregoing, Applicants submit that the instant claims satisfy the requirements of 35 U.S.C § 112, second paragraph and respectfully request that the rejections on this basis be withdrawn.

III. Claim Rejections-35 USC § 102

Claims 6, 7 and 11 stand rejected under 35 USC § 102(b) for allegedly being anticipated by U.S. Patent No. 4,229,417 to Kanai et al. (hereinafter the '417 patent) and for allegedly being anticipated by U.S. Patent No. 5,641,460 to Okazoe et al. (hereinafter the '460 patent). The incorporation of the elements of dependent claim 8 into claim 6 renders this rejection on the instant claims moot. Neither the '417 patent nor the '460 patent disclose an oxygen-containing gas blowing device comprising the delivery pipes for an absorbing fluid as claimed. In view of the foregoing, Applicants respectfully request that the rejections under 35 USC § 102(b) be withdrawn.

IV. Claim Rejections-35 USC § 103

Claim 9 stands rejected under 35 USC § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,001,321 to Okazoe et al. (hereinafter the '321 patent), in light of U.S. Patent No. 5,824,141 to Gohara et al. (hereinafter the '141 patent).

The Examiner alleges that the '141 patent discloses provision of horizontal and vertical orientation of delivery pipes and that it would have been obvious to one having ordinary skill in the art to select an appropriate orientation of the delivery pipes taught in the '141 patent in the apparatus of the '321 patent so as to facilitate the mixing of the absorption mixture. Applicants respectfully disagree.

Applicants assert that it is not obvious in light of the '141 and '321 patents to select an appropriate orientation of the delivery pipes as taught by Gohara et al. in the apparatus of Okazoe et al. of the present invention as argued by the Examiner. As stated in § 2143 of the MPEP, three basic criteria must be met to establish a *prima facie* case of obviousness. The requirements are:

“First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be reasonable expectation of success. Finally, the prior art reference (or the references combined) must teach or suggest all the claim limitations.”

Neither the '141 patent nor the '321 patent provide suggestion or motivation to combine the reference teachings, nor do these references provide evidence for a reasonable expectation of success. Finally, the '141 and '321 patents do not teach all of the claim limitations of claim 9. The '141 and '321 patents do not disclose an oxygen-containing gas blowing device comprising a fluid reservoir and delivery pipes for an absorbing fluid disposed as outlined in the instant claim.

In view of the forgoing, Applicants submit that claim 9 is unobvious and respectfully request that the § 103(a) rejections be withdrawn.

V. Double Patenting

Claims 6, 7 and 11 stand rejected under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1–3 of the '460 patent. The amendment to claim 6 that incorporates the elements of claim 8 renders this rejection moot, and Applicants respectfully request that the double patenting rejection be withdrawn.

In re: Shinoda et al.
Application Serial No. 09/751,087
Filed: December 29, 2000

VI. Conclusions

The points and concerns raised by the Examiner in the outstanding Office Action have been addressed in full, it is respectfully submitted that this application is in condition for allowance. Should the Examiner have any remaining concerns, it is respectfully requested that the Examiner contact the undersigned Attorney to expedite the prosecution of this application to allowance.

Applicants believe that no fee is due at this time. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,



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